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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,182	08/27/2003	Herbert Martin	60,126-229	5241

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EXAMINER

HOOK, JAMES F

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/649,182

Applicant(s)

MARTIN ET AL.

Examiner

James F. Hook

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11, 13 and 14 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crisman in view of Samson. The patent to Crisman discloses the recited tube for transport of a flowable material comprising a first layer 52,58 having an inner wall formed from perfluoroalkoxy (PFA) polymers which inherently would have piggyback properties same as applicants in that it is formed of the same material, and with the lack of any modification mentioned to this layer, it is considered that the PFA layer would inherently have the same properties as applicants, a second layer 56,60 is also provided which can be made from a thermoplastic polyolefin of which polyethylene is a known type of polyolefin, and an outer layer can also be provided 62,54 made of a polymeric material, and the method of forming these layers by coextrusion is also set forth. The patent to Crisman discloses all of the recited structure with the exception of stating that low density polyethylene (LDPE) is used for the second layer outside of the PFA layer, although polyolefins are discussed as usable for such layer. The patent to Samson discloses that when PFA is used for the inner layer of a tube, polyolefins such as LDPE can be used for the layer just outside of the PFA layer. It would have been obvious to one skilled in the art to modify the layer outside of the PFA layer in Crisman

by using a specific type of polyolefin, specifically LDPE as the outer layer to the PFA as disclosed by Samson as such is a known material that is capable of use with PFA and is specifically a known polyolefin that has more flexibility and would provide for a more flexible tube that would be usable in tighter situations without the risk of failure thereby saving money by reducing replacement costs. Since no modification was made to the LDPE material in applicants claim 14, the LDPE layer of Samson is considered to inherently possess the same properties as applicants including high voltage resistance including up to 30kV/mm as such is an inherent property of the material and Crisman as modified has the same material as applicant.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crisman in view of Samson as applied to claims 11 and 14 above, and further in view of Noone (673). The patent to Crisman as modified discloses all of the recited structure with the exception of forming the second layer of two sub layers. The patent to Noone discloses that it is old and well known in the art to form tubes of a plurality of layers including an inner, second, and cover layer, or forming the second layer of two sub layers thereby providing a 4 layer structure to provide better adherence of layers and permeability resistance. It would have been obvious to one skilled in the art to modify the tube in Crisman as modified by forming the second layer of two sub layers, as such is merely a choice of mechanical design, and an equivalent structure useable in forming tubes of multilayers where the added layer can provide beneficial connecting properties for the layers as well as permeability resistance as suggested by Noone, where such would reduce the chance of failure of the tube thereby saving costs.

Response to Arguments

Applicant's arguments with respect to claims 11, 13, and 14 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Martucci (775), Katayama, and Chen disclosing state of the art multilayer tubes.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

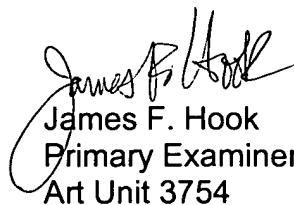
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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James F. Hook
Primary Examiner
Art Unit 3754

JFH